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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,442	10/29/2001	Thomas Ward Osborn III	7310C	6100

27752 7590 03/05/2003

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EXAMINER

RUHL, DENNIS WILLIAM

ART UNIT PAPER NUMBER

3761

DATE MAILED: 03/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

N.K.

<b>Office Action Summary</b>	Application No.		Applicant(s)	
	10/039,442		OSBORN ET AL.	
	Examiner		Art Unit	
	Dennis Ruhl		3761	

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_                      6) ☐ Other: \_\_\_\_

1. The abstract of the disclosure is objected to because it is more than 150 words in length. It must not be more than 150 words. Correction is required. See MPEP § 608.01(b).
2. The disclosure is objected to because of the following informalities: Applicant has not listed the current status (abandoned, patent numbers if allowed, etc.) of the parent cases relied upon for priority. Appropriate correction is required.
3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Bailey (2330257).

With respect to claims 1,6,, Bailey discloses a bag like absorbent body 2, a head portion 4 (where the string is attached), and a trailing end (the open end opposite the head portion). See column 2, lines 19-24 for the disclosure of cotton for the absorbent material. Bailey does not specifically disclose the shape modulus of compression for the tampon because Bailey was not concerned with this variable. Bailey is silent to this limitation. Because the modulus of compression is the force required to more or less flatten the tampon so that the interior has essentially no volume, the examiner feels that it is inherent that it would take less than 0.05 pounds of force (a little more than  $\frac{3}{4}$  ounces) to more or less flatten the tampon of Bailey so that the interior has essentially no volume. The tampon of Bailey is made of cotton (which is one material applicant has

claimed for use), and the tampon may be simply one layer of cotton, so the examiner feels that that the tampon of Bailey meets the limitation for the shape modulus of compression. Tampons by nature of where they are used must be flexible/conformable to the body cavity where they are used and this points to an easily compressed/deformable article. With a one layer cotton tampon as disclosed by Bailey and knowing that cotton is a readily conformable and flexible material the examiner feels there is enough basis to conclude the limitation of shape modulus of compression is inherent in Bailey.

With respect to claims 2,3, the string is 5.

With respect to claim 4, see the figures where it is shown that a portion of the string is disposed in the interior of the tampon.

With respect to claim 5, the tampon of Bailey is fully capable of being inverted as claimed. If one were to pull on the portion of the string that is inside the tampon, the tampon would invert.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Elmi (4018225) discloses a tampon with a bag shape.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis Ruhl whose telephone number is 703-308-2262. The examiner can normally be reached on Tuesday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on 703-308-1957. The fax phone numbers for

Application/Control Number: 10/039,442

Page 4

Art Unit: 3761

the organization where this application or proceeding is assigned are 703-305-3590 for regular communications and 703-305-3590 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.



DENNIS RUHL  
PRIMARY EXAMINER

DR  
March 1, 2003